SENATE BILL 3442
By Faulk

HOUSE BILL 3817

By Johnson P

AN ACT to amend Tennessee Code Annotated, Title 56, relative to agreements that transfer risk through provider contracts.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 56-32-104(a)(3), is amended by deleting subdivision (E) in its entirety and by substituting instead the following:

(E) In the event the HMO enters into an agreement with any physician-hospital organization, or any other provider or provider network, for the provision of basic health care services on a prepayment basis, such as described in § 56-32-102, the commissioner may not disallow the agreement on the basis that it transfers risk to the physician-hospital organization or other provider network; provided, that the HMO shall:

(i) Remain contractually responsible to its enrollees and to organizations or entities contracting with it for the provision or arrangement of all the basic health care services, and the HMO provides a system for reserving for its continued liability that is approved by the department of commerce and insurance; and

(ii) Comply with SECTION 2 of this act; and

SECTION 2. Tennessee Code Annotated, Title 56, Chapter 2, Part 1, is amended by adding the following language as a new section:

56-2-1__.

(a) As used in this section, "plan" means any medical expense indemnity corporation plan; health, hospital, or medical service corporation plan; nonprofit hospital or medical service corporation plan; or self-funded employer-sponsored health insurance

plan regulated under the Employee Retirement Income Security Act of 1974 (ERISA), compiled in 29 U.S.C. § 1001, et seq.

(b) Any plan, may contract with a provider or provider organization for the transfer of risk to the provider; provided, that the plan remains contractually responsible to its enrollees and to organizations or entities contracting with it for the provision or arrangement of all the basic health care services, and the plan provides a system for reserving for its continued liability that is approved by the commissioner of commerce and insurance.

(c) The commissioner shall require any plan and any provider or provider network approved under subsection (b) to assure that any consumer or insured or subscriber who receives health care services from such provider or provider organization will be held harmless from any insolvency or default relating to the transfer of risk approved in subsection (b).

(d) A plan shall submit a protocol for evaluating a provider's or provider networks ability to accept and manage risk to the commissioner for approval at least forty-five (45) prior to the proposed date of the transfer of any risk.

(e) In addition to any other remedy available under law, the commissioner shall require any plan and any provider or provider network approved under subsection (b) to agree to be subject to chapter 9 of this title in the event of a insolvency or a default on obligations.

(f) The commissioner is authorized to promulgate rules and regulations to effectuate the purposes of this section. All such rules and regulations shall be promulgated in accordance with the Uniform Administrative Procedures Act, complied in title 4, chapter 5.

SECTION 3. This act shall take effect January 1, 2013, the public welfare requiring it.